

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

**THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&**

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

WEDNESDAY, THE 19TH SEPTEMBER 2007 / 28TH BHADRA 1929

WP(C).No. 5631 of 2006(U)

PETITIONER:

**MRS. SEENA AKBAR, W/O. HAMEED AKBAR
STAR GARDEN, CHETTICHIRA ROAD,
KARANAKKODAM, KOCHI-682 019.**

**BY ADV. SRI.G.HARIHARAN,
SRI.PRAVEEN.H.**

RESPONDENTS:

- 1. THRIKKAKARA GRAMA PANCHAYATH,
THRIKKAKARA, KAKKANAD, REPRESENTED
BY ITS SECRETARY.**
- 2. P.M. BAKKER, S/O. MOIDEEN PILLAI,
PALLIPARAMBIL HOUSE, PADAMUGAL, KAKKANAD,
KOCHI-682 030.**
- 3. M/S. AIRTEL, (A UNIT OF BHARATHI
TELEVENTURE LIMITED), SAHODARAN AYYAPPAN ROAD,
KADAVANTHRA, KOCHI-682 020.**

prv.

W.P.(C). NO.5631/2006:

**4. KERALA STATE POLLUTION CONTROL BOARD,
ERNAKULAM DISTRICT OFFICE, NEAR CIVIL
STATION, KAKKANAD, KOCHI-682 030.**

**BY ADV. SRI.BABU JOSEPH KURUVATHAZHA,SC,POLU.C.BOARD,
SRI.SATHISH NINAN,
SRI.SANTHOSH MATHEW,
SRI.S.SHANAVAS KHAN,
SMT.K.K.THULASY BHAI,SC,POLLUTION C.BOARD.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 19/09/2007,THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

prv.

W.P.(C). NO.5631/2006:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE POSSESSION CERTIFICATE DTD. 04/10/04 ISSUED BY THE VILLAGE OFFICER, VAZHAKKALA VILLAGE EVIDENCING POSSESSION OF THE ABOVE MENTIONED LAND TO THE PETITIONER.

EXT.P.2: COPY OF THE CHART SHOWING THE DIFFERENCES IN R.F ENERGY LEVELS FROM A LOW GAIN ANTENNA AND A HIGH GAIN ANTENNA.

EXT.P.3: COPY OF THE REPRESENTATION FILED BY THE PETITIONER BEFORE THE R.1. DTD. 17/02/06.

RESPONDENT'S EXHIBIT:

EXT. R3.A: COPY OF THE NO OBJECTION CERTIFICATE DTD. 13/02/2006 ISSUED BY THE R.1. TO THE R.3.

//TRUE COPY//

prv.

K.BALAKRISHNAN NAIR &
T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C) NO.5631 OF 2006-U

Dated 19th September, 2007.

JUDGMENT

Balakrishnan Nair, J.

The petitioner is aggrieved by the construction of a telecommunication tower in her neighbourhood by the 3rd respondent. According to her, the radiation emanating from the said tower is a health hazard. Therefore, this writ petition was filed against the construction and commissioning of the tower. The petitioner submits, during the pendency of the writ petition the Building Rules were made applicable to the 1st respondent Grama Panchayat. So, building permit is necessary for the construction of the tower.

2. Whether the radiation from the tower will be a health hazard or not is a hotly contested point in scientific circles. So far, there is no statutory provision against the erection of telecommunication towers. But, the learned counsel for the petitioner submitted that the petitioner has already moved the civil court for appropriate reliefs. The petitioner may pursue the

suit before the civil court. If the construction of the tower is not so far undertaken, the same can be done only after obtaining building permit for the same from the Panchayat, as the Building Rules are already enforced. The contentions regarding the health hazard as a result of the functioning of the telecommunication tower are kept open.

The writ petition is disposed of as above.

K.BALAKRISHNAN NAIR, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

Nm/